



February 20, 2004

ENGROSSED HOUSE BILL No. 1254

DIGEST OF HB 1254 (Updated February 19, 2004 8:43 am - DI 71)

Citations Affected: IC 9-13; IC 9-24; IC 9-27; noncode.

Synopsis: Driver's licensing matters. Allows the bureau of motor vehicles to adopt rules to comply with federal requirements concerning background checks for an individual seeking a hazardous materials endorsements for a commercial driver's license. Specifies that a learner's permit holder who: (1) is less than 18 years old and holds a validated permit; or (2) is enrolled in an approved driver's education course; may drive a motor vehicle when the seat beside the driver's seat is occupied by a stepparent of the permit holder who holds a valid operator's license. Permits a licensed commercial driver training school to conduct classroom training in a county outside the county in which the school is located.

Effective: Upon passage; July 1, 2004.

Robertson, Burton

(SENATE SPONSORS — MERRITT, YOUNG R)

January 20, 2004, read first time and referred to Committee on Roads and Transportation.
January 29, 2004, amended, reported — Do Pass.
February 2, 2004, read second time, ordered engrossed.
February 3, 2004, engrossed.
February 5, 2004, read third time, passed. Yeas 56, nays 39.

SENATE ACTION

February 9, 2004, read first time and referred to Committee on Transportation and Homeland Security.
February 19, 2004, amended, reported favorably — Do Pass.

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EH 1254—LS 7350/DI 96+



February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1254

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-13-2-1.1 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2004]: **Sec. 1.1. "Act", for purposes of IC 9-24-6.5, has the**
4 **meaning set forth in IC 9-24-6.5-1.**
- 5 SECTION 2. IC 9-13-2-1.5 IS ADDED TO THE INDIANA CODE
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2004]: **Sec. 1.5. "Administration", for purposes of IC 9-24-6.5,**
8 **has the meaning set forth in IC 9-24-6.5-2.**
- 9 SECTION 3. IC 9-24-6-11.5 IS ADDED TO THE INDIANA CODE
10 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 2004]: **Sec. 11.5. (a) This section applies if the United States**
12 **Department of Homeland Security, Transportation Security**
13 **Administration adopts regulations concerning disqualifying**
14 **offenses.**
- 15 **(b) The bureau shall revoke the hazardous materials**
16 **endorsement of a driver who:**
- 17 **(1) receives a judgment or conviction for a disqualifying**

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1 offense (as defined in the regulations described in subsection
2 (a)) immediately upon receiving notice of the judgment or
3 conviction; or

4 (2) is determined by the United States Transportation
5 Security Administration to be a potential security threat;
6 and shall give notice to the driver that the endorsement has been
7 revoked and of the procedure by which the driver may appeal the
8 revocation.

9 (c) The revocation of the hazardous material endorsement of a
10 driver revocation under subsection (b) is for the period set forth
11 under the regulations described in subsection (a).

12 SECTION 4. IC 9-24-6-12, AS AMENDED BY P.L.123-2002,
13 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2004]: Sec. 12. (a) A driver who:

15 (1) is:

16 (A) convicted of an offense described in section 8(1) through
17 8(4) or 8(6) of this chapter; or

18 (B) found to have violated section 8(7) of this chapter; and

19 (2) has been previously convicted in a separate incident of any
20 offense described in section 8(1) through 8(4) or 8(6) of this
21 chapter;

22 is disqualified for life from driving a commercial motor vehicle.

23 (b) A driver who applies for a hazardous materials endorsement and
24 has been convicted of:

25 (1) a felony under Indiana law that results in serious bodily injury
26 or death to another person; or

27 (2) a crime in any other jurisdiction in which the elements of the
28 crime for which the conviction was entered are substantially
29 similar to the elements of a felony described in subdivision (1);

30 is disqualified for life from holding a hazardous materials endorsement.

31 (c) The hazardous materials endorsement of a driver who holds a
32 hazardous materials endorsement and is convicted of a:

33 (1) felony under Indiana law that results in serious bodily injury
34 or death to another person; or

35 (2) crime in any other jurisdiction in which the elements of the
36 crime for which the conviction was entered are substantially
37 similar to the elements of a felony described in subdivision (1);

38 is revoked upon conviction, and the driver is disqualified for life from
39 holding a hazardous materials endorsement.

40 (d) The hazardous materials endorsement of a driver may be
41 revoked and the driver may be disqualified from holding a
42 hazardous materials endorsement if the revocation and

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1 disqualification are required under regulations adopted by the
 2 United States Department of Homeland Security, Transportation
 3 Security Administration.

4 SECTION 5. IC 9-24-6.5 IS ADDED TO THE INDIANA CODE
 5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2004]:

7 **Chapter 6.5. Hazardous Material Endorsement Application and**
 8 **Renewal**

9 **Sec. 1. As used in this chapter, "act" refers to the federal**
 10 **Uniting and Strengthening America by Providing Appropriate**
 11 **Tools Required to Intercept and Obstruct Terrorism Act, Pub. L.**
 12 **107-56, 115 Stat. 272 (2001).**

13 **Sec. 2. As used in this chapter, "administration" refers to the**
 14 **United States Department of Homeland Security, Transportation**
 15 **Security Administration.**

16 **Sec. 3. The bureau may adopt rules and policies necessary to**
 17 **fully implement the requirements of the act and the regulations**
 18 **adopted to implement the act.**

19 **Sec. 4. The bureau shall forward the information provided by**
 20 **an applicant for a hazardous material endorsement to the**
 21 **administration or another agency designated to receive the**
 22 **information if the bureau is required to forward the information**
 23 **under regulations adopted to implement the act.**

24 **Sec. 5. The bureau may:**

- 25 (1) determine the cost to the state of procedures required to
- 26 comply with regulations adopted to implement the act; and
- 27 (2) charge a fee to applicants that is sufficient to offset the cost
- 28 determined under subdivision (1).

29 **Sec. 6. (a) The hazardous materials endorsement of a driver who**
 30 **applies for renewal of the endorsement may remain valid after the**
 31 **date on which the endorsement would otherwise expire if both of**
 32 **the following conditions are met:**

- 33 (1) The application for renewal was received by the bureau at
- 34 least ninety (90) days before the date on which the
- 35 endorsement expires.
- 36 (2) On the date on which the endorsement expires, the bureau
- 37 has not yet received the results of a background check
- 38 conducted by the administration or another agency
- 39 designated to conduct the background check.

40 **(b) Except as provided in subsection (c), an extension under**
 41 **subsection (a) is valid for ninety (90) days after the date on which**
 42 **the endorsement would otherwise expire.**

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(c) Notwithstanding subsection (b), if the bureau receives information from the administration or another agency designated to conduct a background check that requires the bureau to revoke the hazardous materials endorsement of a driver, the bureau shall revoke the endorsement immediately upon receipt of the information.

(d) An extension under subsection (a) may be renewed until:

- (1) the bureau receives the results of a background check conducted by the administration or another agency designated to conduct the background check; or
- (2) further extensions are barred under regulations adopted to implement the act.

Sec. 7. An applicant whose application for a hazardous materials endorsement is denied or whose hazardous materials endorsement is revoked under IC 9-24-6-11.5 may appeal the denial or revocation under IC 4-21.5 or, if other procedures are adopted by the administration or another agency of the United States, under the other procedures.

SECTION 6. IC 9-24-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. A learner's permit authorizes the permit holder to operate a motor vehicle, except a motorcycle, upon a public highway under the following conditions:

- (1) While the holder is participating in practice driving in an approved driver education course and is accompanied by a certified driver education instructor in the front seat of an automobile equipped with dual controls.
- (2) If the learner's permit has been validated and the holder is less than eighteen (18) years of age, the holder may participate in practice driving if the seat beside the holder is occupied by a guardian, **stepparent**, or relative of the holder who holds a valid operator's, chauffeur's, or public passenger chauffeur's license.
- (3) If the learner's permit has been validated and the holder is at least eighteen (18) years of age, the holder may participate in practice driving if accompanied in the vehicle by an individual who holds a valid operator's, chauffeur's, or public passenger chauffeur's license.
- (4) While:
 - (A) the holder is enrolled in an approved driver education course;
 - (B) the holder is participating in practice driving after having commenced an approved driver education course; and
 - (C) the seat beside the holder is occupied by a parent,

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stepparent, or guardian of the holder who holds a valid operator's, chauffeur's, or public passenger chauffeur's license.

SECTION 7. IC 9-27-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) To establish or operate a commercial driver training school, the school must obtain a license from the bureau in the manner and form prescribed by the bureau.

(b) **Subject to subsection (c)**, the bureau shall adopt rules under IC 4-22-2 that state the requirements for obtaining a school license, including the following:

- (1) Location of the school.
- (2) Equipment required.
- (3) Courses of instruction.
- (4) Instructors.
- (5) Previous records of the school and instructors.
- (6) Financial statements.
- (7) Schedule of fees and charges.
- (8) Character and reputation of the operators and instructors.
- (9) Insurance in the amount and with the provisions the bureau considers necessary to adequately protect the interests of the public.
- (10) Other matters the bureau prescribes for the protection of the public.

(c) **The rules adopted under subsection (b) must permit a licensed school to conduct classroom training in a county outside the county where the school is located to the students of:**

- (1) a school corporation (as defined in IC 36-1-2-17);
- (2) a nonpublic secondary school that voluntarily becomes accredited under IC 20-1-1-6; or
- (3) a nonpublic secondary school recognized under IC 20-1-1-6.2;

if the governing body of the school corporation or the nonpublic secondary school approves the delivery of the training to its students.

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC 9-27-4-4, as amended by this act, the bureau of motor vehicles shall carry out the duties imposed upon it under IC 9-27-4-4, as amended by this act, under interim written guidelines approved by the commissioner of the bureau of motor vehicles.**

(b) **This SECTION expires on the earlier of the following:**

- (1) **The date rules are adopted under IC 9-27-4-4, as amended by this act.**

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1 **(2) December 31, 2004.**
2 **SECTION 9. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1254, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 12, after "guardian" insert ", **stepparent**,".

Page 2, line 9, after "parent" insert ", **stepparent**,".

and when so amended that said bill do pass.

(Reference is to HB 1254 as introduced.)

RESKE, Chair

Committee Vote: yeas 10, nays 1.

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COMMITTEE REPORT

Madam President: The Senate Committee on Transportation and Homeland Security, to which was referred House Bill No. 1254, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-13-2-1.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.1. "Act", for purposes of IC 9-24-6.5, has the meaning set forth in IC 9-24-6.5-1.**

SECTION 2. IC 9-13-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.5. "Administration", for purposes of IC 9-24-6.5, has the meaning set forth in IC 9-24-6.5-2.**

SECTION 3. IC 9-24-6-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 11.5. (a) This section applies if the United States Department of Homeland Security, Transportation Security Administration adopts regulations concerning disqualifying offenses.**

(b) The bureau shall revoke the hazardous materials endorsement of a driver who:

- (1) receives a judgment or conviction for a disqualifying offense (as defined in the regulations described in subsection (a)) immediately upon receiving notice of the judgment or conviction; or**

(2) is determined by the United States Transportation Security Administration to be a potential security threat; and shall give notice to the driver that the endorsement has been revoked and of the procedure by which the driver may appeal the revocation.

(c) The revocation of the hazardous material endorsement of a driver revocation under subsection (b) is for the period set forth under the regulations described in subsection (a).

SECTION 4. IC 9-24-6-12, AS AMENDED BY P.L.123-2002, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 12. (a) A driver who:**

- (1) is:**
 - (A) convicted of an offense described in section 8(1) through 8(4) or 8(6) of this chapter; or**

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(B) found to have violated section 8(7) of this chapter; and
 (2) has been previously convicted in a separate incident of any offense described in section 8(1) through 8(4) or 8(6) of this chapter;

is disqualified for life from driving a commercial motor vehicle.

(b) A driver who applies for a hazardous materials endorsement and has been convicted of:

(1) a felony under Indiana law that results in serious bodily injury or death to another person; or

(2) a crime in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a felony described in subdivision (1);
 is disqualified for life from holding a hazardous materials endorsement.

(c) The hazardous materials endorsement of a driver who holds a hazardous materials endorsement and is convicted of a:

(1) felony under Indiana law that results in serious bodily injury or death to another person; or

(2) crime in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a felony described in subdivision (1);
 is revoked upon conviction, and the driver is disqualified for life from holding a hazardous materials endorsement.

(d) The hazardous materials endorsement of a driver may be revoked and the driver may be disqualified from holding a hazardous materials endorsement if the revocation and disqualification are required under regulations adopted by the United States Department of Homeland Security, Transportation Security Administration.

SECTION 5. IC 9-24-6.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 6.5. Hazardous Material Endorsement Application and Renewal

Sec. 1. As used in this chapter, "act" refers to the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, Pub. L. 107-56, 115 Stat. 272 (2001).

Sec. 2. As used in this chapter, "administration" refers to the United States Department of Homeland Security, Transportation Security Administration.

Sec. 3. The bureau may adopt rules and policies necessary to fully implement the requirements of the act and the regulations

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adopted to implement the act.

Sec. 4. The bureau shall forward the information provided by an applicant for a hazardous material endorsement to the administration or another agency designated to receive the information if the bureau is required to forward the information under regulations adopted to implement the act.

Sec. 5. The bureau may:

- (1) determine the cost to the state of procedures required to comply with regulations adopted to implement the act; and
- (2) charge a fee to applicants that is sufficient to offset the cost determined under subdivision (1).

Sec. 6. (a) The hazardous materials endorsement of a driver who applies for renewal of the endorsement may remain valid after the date on which the endorsement would otherwise expire if both of the following conditions are met:

- (1) The application for renewal was received by the bureau at least ninety (90) days before the date on which the endorsement expires.
- (2) On the date on which the endorsement expires, the bureau has not yet received the results of a background check conducted by the administration or another agency designated to conduct the background check.

(b) Except as provided in subsection (c), an extension under subsection (a) is valid for ninety (90) days after the date on which the endorsement would otherwise expire.

(c) Notwithstanding subsection (b), if the bureau receives information from the administration or another agency designated to conduct a background check that requires the bureau to revoke the hazardous materials endorsement of a driver, the bureau shall revoke the endorsement immediately upon receipt of the information.

(d) An extension under subsection (a) may be renewed until:

- (1) the bureau receives the results of a background check conducted by the administration or another agency designated to conduct the background check; or
- (2) further extensions are barred under regulations adopted to implement the act.

Sec. 7. An applicant whose application for a hazardous materials endorsement is denied or whose hazardous materials endorsement is revoked under IC 9-24-6-11.5 may appeal the denial or revocation under IC 4-21.5 or, if other procedures are adopted by the administration or another agency of the United

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States, under the other procedures."

Page 1, line 12, delete ":".

Page 1, line 13, delete "(A)".

Page 1, run in lines 12 through 13.

Page 1, line 14, delete "; and" and insert ".".

Page 1, delete line 15.

Page 2, delete lines 12 through 39, begin a new paragraph and insert:

"SECTION 7. IC 9-27-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) To establish or operate a commercial driver training school, the school must obtain a license from the bureau in the manner and form prescribed by the bureau.

(b) **Subject to subsection (c)**, the bureau shall adopt rules under IC 4-22-2 that state the requirements for obtaining a school license, including the following:

- (1) Location of the school.
- (2) Equipment required.
- (3) Courses of instruction.
- (4) Instructors.
- (5) Previous records of the school and instructors.
- (6) Financial statements.
- (7) Schedule of fees and charges.
- (8) Character and reputation of the operators and instructors.
- (9) Insurance in the amount and with the provisions the bureau considers necessary to adequately protect the interests of the public.
- (10) Other matters the bureau prescribes for the protection of the public.

(c) **The rules adopted under subsection (b) must permit a licensed school to conduct classroom training in a county outside the county where the school is located to the students of:**

- (1) a school corporation (as defined in IC 36-1-2-17);
- (2) a nonpublic secondary school that voluntarily becomes accredited under IC 20-1-1-6; or
- (3) a nonpublic secondary school recognized under IC 20-1-1-6.2;

if the governing body of the school corporation or the nonpublic secondary school approves the delivery of the training to its students.

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC 9-27-4-4, as amended by this act, the bureau**

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of motor vehicles shall carry out the duties imposed upon it under IC 9-27-4-4, as amended by this act, under interim written guidelines approved by the commissioner of the bureau of motor vehicles.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 9-27-4-4, as amended by this act.

(2) December 31, 2004.

SECTION 9. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1254 as printed January 30, 2004.)

WYSS, Chairperson

Committee Vote: Yeas 7, Nays 0.

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